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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

EXAMINER

WILLIAMS, MONICA L

ART UNIT

PAPER NUMBER

3644

MAIL DATE

DELIVERY MODE

03/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/566,447

Applicant(s)

SIEDLACZEK, UDO

Examiner

MONICA L. WILLIAMS

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 18, on page 9. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oki et al (2,826,003) in view of Anderson (4,294,644).

3. In re claim 1, with reference to the figures, Oki et al disclose a potting machine for potting flowerpots, with a conveying device (12) comprising a plurality of pot retainers (14) for a respective flowerpot, with a housing ring (1) surrounding the conveying device. Not disclosed is the labeling device.

4. However, with reference to col.3 lines 16-26 and Figure 2, Anderson discloses a labeling device for labeling items on a conveying device comprising a dispensing tongue (40) constructed and arranged for stripping off labels and applying them to the items, a positioning device comprising a first joint (42,68) and having a positioning arm (38) constructed and arranged for pivoting the labeling device and positioning the dispensing tongue against the items being connected to the labeling device, the positioning device comprising a second joint (shown at 58) enabling the dispensing tongue to be inclined. The advantage of the labeling device is to provide information about the item being labeled. Thus it would have been obvious to one having ordinary skill in the art to have modified the potting machine of Oki et al to include a labeling device as taught by Anderson in order have information about the flowerpots clearly posted.

5. In re claim 2, with reference to Figure 2, Anderson discloses a mounting means (70) is provided at the end of the positioning arm for detachably mounting on the housing.

6. In re claims 3 and 4, with reference to col.4 lines 48-53, Anderson discloses that the mounted means comprises clamp bolts which, as disclosed in the last paragraph on page 3 of the specification, the applicant seems to disclose as meeting the claimed limitation of frictional or positive mounting.

7. In re claim 5, with reference to Figure 2, Anderson discloses the positioning arm is firmly connected via a mounting means (70) to the housing.
8. In re claim 6, with reference to Figure 2, Anderson discloses the joint (42,68) is provided between the mounting means (70) and the positioning arm (38).
9. In re claims 7, 9, 18, and 19, with reference to Figure 2 and col.4 lines 26-34, Anderson discloses the positioning device comprises at least one further positioning arm (32) in that the positioning arm (38) and the further positioning arm (32) are connected to one another via a further joint (not numbered, shown as vertical slab in Figure 2), and at least one spring-tension means (54) is provided between the positioning arm and the housing.
10. In re claims 8 and 17, with reference to col.4 lines 35-38, Anderson discloses the labeling device is spring loaded (58) in such a way that the dispensing tongue is positioned automatically against the item to be labeled.
11. In re claim 10, with reference to Figure 2, Anderson discloses the labeling device is connected to the positioning arm (38).
12. In re claims 11 and 12, with reference to col.4 lines 48-53, Anderson discloses the labeling device is height-adjustable with respect to the mounting means (70).
13. In re claim 13, with reference to Figure 2, Anderson discloses the positioning arm is designed at an angle with a horizontal leg and a vertical leg.
14. In re claim 14, with reference to Figure 2 and col.4 lines 48-53, Anderson discloses the labeling device is able to pivot (about the bracket) about a longitudinal axis of the positioning arm.

15. In re claim 15, with reference to Figure 2, Anderson discloses the first joint is designed in such a way that movement is possible about at least two axes (side to side, up and down).

16. In re claim 16, with reference to Figure 2, Anderson discloses the joint is assigned a locking means (70) of locking any pivoting position.

Response to Arguments

17. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

18. The applicant stated in the remarks that a new claim 19 was added combining claims 1, 7, and 14, however claim 19 only combines claims 1 and 7.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA L. WILLIAMS whose telephone number is (571)270-3113. The examiner can normally be reached on Mon to Fri 6:00-3:30, Alternate Friday off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yvonne R. Abbott/
signing for Michael Mansen
Supervisory Patent Examiner
Art Unit 3644

MW 03/10/2009